

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

**IN RE: AME CHURCH EMPLOYEE
RETIREMENT FUND LITIGATION**

MDL DOCKET NO.
1:22-md-03035-STA-jay

ALL CASES

**DEFENDANT NEWPORT GROUP, INC.'S MOTION TO DISMISS PLAINTIFFS'
CONSOLIDATED AMENDED COMPLAINT**

Defendant Newport Group, Inc. (“Newport”), by and through undersigned counsel, hereby moves to dismiss all claims against Newport in this action, pursuant to Federal Rule of Civil Procedure 12(b)(6), because the Consolidated Amended Complaint (Dkt. # 74) (“Complaint”) fails to state any claims for which relief can be granted. Specifically, the claims against Newport in Count I (breach of fiduciary duty), Count II (breach of the Tennessee Uniform Trust Code), Count III (negligence), Count V (fraudulent concealment), Count VI (fraudulent misrepresentation), Count XVI (violation of ERISA reporting and disclosure requirements), and Count XVII (co-fiduciary liability and knowing participation in fiduciary breaches) should be dismissed because Plaintiffs have failed to make plausible allegations sufficient to support these claims. Additionally, the claims for fraudulent concealment and fraudulent misrepresentation should be dismissed because Plaintiffs have failed to plead them with particularity against Newport as required by Federal Rule of Civil Procedure 9. The reasons supporting this Motion are set forth in detail in the accompanying Memorandum of Law.

WHEREFORE, Newport respectfully requests that the Court GRANT this Motion and DISMISS all claims against Newport in this action with prejudice.

DATED: September 19, 2022

Respectfully submitted,

s/Lars C. Golumbic _____

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Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2022, a true and correct copy of the foregoing DEFENDANT NEWPORT GROUP, INC.'S MOTION TO DISMISS PLAINTIFFS' CONSOLIDATED AMENDED COMPLAINT was sent to all counsel of record via the CM/ECF system.

s/ Lars C. Golumbic _____
Lars C. Golumbic